

SUMMARY ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Florez Analyst: Darrine Distefano Bill Number: SB 403

Related Bills: See Prior Analysis Telephone: 845-6458 Amended Date: September 9, 2003

Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Information Technology Act of 2003

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended _____.

AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

☒ AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as amended September 2, 2003.

FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO _____.

☒ REMAINDER OF PREVIOUS ANALYSIS OF BILL AS AMENDED June 23, 2003 STILL APPLIES.

☒ OTHER - See comments below.

SUMMARY

This bill would:

- Create the Information Technology Act of 2003, the Office of the State Chief Information Officer (officer), and the Information Technology Board (board), and
- Modify the information technology (IT) responsibilities for the director of each state agency.

SUMMARY OF AMENDMENTS

The September 9, 2003, amendments:

- Add the State Controller as a member of the board.
- Add a fifth member to the board that has expertise in management, large complex organizations, or IT but who is not an employee of the state or employee or representative of the IT and telecommunications industries.
- Require the fifth member of the board to be appointed for an initial term of four years.
- Require the Department of Finance (DOF) to provide staff to the board to assist with the oversight program.
- Require each state agency to be responsible for overwriting, or rendering unrecoverable, data contained on its surplus data storage hardware before disposing of, auctioning off, or otherwise transferring the data from state possession.

Board Position:

<input type="checkbox"/> S	<input type="checkbox"/> NA	<input type="checkbox"/> NP
<input type="checkbox"/> SA	<input type="checkbox"/> O	<input type="checkbox"/> NAR
<input type="checkbox"/> N	<input type="checkbox"/> OUA	<input checked="" type="checkbox"/> PENDING

Legislative Director

Date

Brian Putler

9/19/03

- Add double-jointing language to SB 973 specifically for Section 12 of this bill relating to acquisition and disposal of IT goods and services (SB 973 was amended on September 9, 2003, and deleted the language similar to Section 12).
- Make various technical changes to the Public Contract Code.

The September 9th amendments do not impact the department. As a result, the department's implementation considerations still apply. Those concerns are repeated below for the author's convenience. The remainder of the department's analysis of the bill as amended June 23rd still applies.

POSITION

Pending.

IMPLEMENTATION CONSIDERATIONS

This bill requires an agency to submit a report on its internal accounting and administrative controls by January 31, 2004. Franchise Tax Board (FTB) is currently conducting an audit of these controls, as required under Financial Integrity and State Managers Accountability Act (FISMA). The results of this audit will be reported by December 31, 2003, as required under current law. Due to the close proximity of the due dates between the current law and this bill, FTB would treat the report it submits on December 31, 2003, under current law, as complying with the requirement to submit the same report on January 31, 2004.

This bill requires the report on the information security controls system to be submitted on January 31, 2004. The operative date of this bill is January 1, 2004. This would allow FTB (and other agencies) only 30 days to conduct an audit of this additional control system and prepare the report. The timeframe would make it difficult for the department to conduct an adequate audit of its information security controls system.

DOF has issued guidelines for the internal accounting and administrative controls report. It is unclear if DOF would issue new guidelines or if agencies would apply the current guidelines to the information security control report. If DOF is required to issue new guidelines for the information security control report, it is unclear if these guidelines would be available to agencies in time to conduct an audit and prepare a report by January 31, 2004.

Current state law (AB 700, Stats. 2000, Ch. 1054) requires agencies to notify California residents if there has been a security breach in an agency's system and of the possibility that their unencrypted personal information may have been acquired. This requirement appears to conflict with this bill's provision that would prohibit DOF from disclosing an unauthorized access to the public if the disclosure poses a threat or potential threat. State law does allow notification to be delayed if law enforcement determines it will hinder the investigation. It is not clear if an agency would still be permitted to notify the affected person(s) or if notification would be delayed until the threat has been removed.

LEGISLATIVE STAFF CONTACT

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